

SENATE COMMITTEE ON WATER AND LAND USE

April 07, 2003
3:00 p.m.

Hearing Room D
Tapes 42 - 43

MEMBERS PRESENT: **Sen. Ted Ferrioli, Chair**
 Sen. Charlie Ringo, Vice-Chair
 Sen. Jason Atkinson
 Sen. Rick Metsger

STAFF PRESENT: **Judith Callens, Committee Administrator**
 Megan Jensen, Committee Assistant

MEASURE/ISSUES HEARD: **SB 499 Work Session**
 SB 398 Public Hearing
 SB 591 Public Hearing
 SB 820 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 42, A		
004	Chair Ferrioli	Calls meeting to order at 3:10 p.m. and opens public hearing on SB 499.
<u>SB 499 – WORK SESSION</u>		
011	Gail Achterman	Deschutes Resources Conservancy. Submits testimony on SB 499 and -2 amendments (EXHIBIT A).
043	Sen. Atkinson	Asks if the Governor is now required to appoint nine members instead of six members.
046	Chair Ferrioli	Affirms and explains the difference is subtracting the two legislator members.
047	Achterman	Explains elimination of the public member to accommodate the tribal and hydroelectric members.
060	Sen. Atkinson	MOTION: Moves to ADOPT SB 499-2 amendments dated 4/7/03.
		VOTE: 3-0
064	Chair Ferrioli	Hearing no objection, declares the motion CARRIED.
065	Sen. Atkinson	MOTION: Moves SB 499 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.
		VOTE: 3-0
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 – Sen. Ringo
070	Chair Ferrioli	The motion CARRIES.
		SEN. MESSERLE will lead discussion on the floor.
		Closes public hearing on SB 499 and opens public hearing on SB 820.
<u>SB 820 – Public Hearing</u>		
097	Sen. David Nelson	District 29 State Senator. Provides testimony in support of SB

		820 (EXHIBIT B) and -1 amendments (EXHIBIT C). Discusses the various uses of Columbia River water for municipal, irrigation and industrial purposes.
180	Sen. Ringo	Inquires if SB 820 will ensure that water will be available for a variety of economic uses.
185	Sen. Nelson	Responds that the goal is to use 1% more of the Columbia River water.
193	Sen. Ringo	Wonders about the focus of SB 820.
200	Sen. Nelson	Responds that the water could be used for a variety of purposes.
202	Chair Ferrioli	Explains that SB 820 contains strict limitations on total water used from the river.
230	Martha Pagel	Eastern Oregon Irrigation Association. Provides testimony in support of SB 820. Discusses the two goals of SB 820: <ul style="list-style-type: none"> • To create a reservation of water in the Columbia River for future economic development • To remove duplicative state review of compliance under the federal Endangered Species Act (ESA) for water right applications to use the reserved water.
280	Sen. Ringo	Asks why the change is proposed for the Columbia River and not other rivers.
289	Pagel	Responds that the regulatory streamlining ideas could benefit other rivers as well.
293	Sen. Ringo	Asks about the rationale behind making the Columbia River the focus of SB 820.
297	Pagel	Explains that the Columbia River is an interstate boundary and the level federal management is different from other rivers in Oregon.
307	Sen. Ringo	Inquires if the two goals of SB 820 are equally important.
313	Pagel	Affirms and elaborates
330	Sen. Ringo	Asks if federal ESA hurdles are more difficult to overcome on the Columbia River than on other rivers.
334	Pagel	Discusses issues of compliance and explains that the Columbia River management plan has many levels of complexity.
337	Chair Ferrioli	Asks if Oregon owns a reservation of several million acre feet of Columbia River irrigation water that has never been exercised.
352	Pagel	Affirms and explains the Columbia River Basin Plan.
369	Chair Ferrioli	States that SB 820 currently does not create such a reservation, and amendments are necessary.
372	Pagel	Affirms.

380	Chair Ferrioli	Discusses water reservation and inquires about the work group progress.
390	Pagel	Responds that the work group will attempt to work quickly.
400	Sen. Atkinson	Asks what problem the 1986 Legislature was attempting to solve regarding this issue.
404	Pagel	Explains the 1986 Legislature's decisions.
415	Sen. Atkinson	Asks why the National Oceanic and Atmospheric Administration (NOAA) is not listed as one of the review agencies removed in SB 820.
422	Pagel	Explains that NOAA Fisheries provides consulting services and certain permits.
TAPE 43, A		
010	Fred Ziari	Eastern Oregon Irrigation Association, Hermiston Development Corporation. Provides testimony in support of SB 820 and discusses the effects of ESA on economic development.
029	Sen. Ringo	Asks if he is referring to the state or federal ESA.
030	Ziari	Responds that he is referring to the federal ESA. Comments on removing productive land from the farm base and conveys that he would like to see 1% of Columbia River water diverted for economic uses in Oregon.
074	Gary Neal	Port of Morrow. Provides testimony in support of 820. Describes the functions of the Port of Morrow and talks about ways to attract business and industry in the area. Believes regulatory streamlining should be encouraged.
140	Sen. Ringo	Asks if industry would locate in Morrow County if water was available.
142	Neal	Believes that jobs would be created.
148	Sen. Ringo	Asks what types of industry would be established.
150	Neal	Mentions food processors and power plants.
157	Sen. Ringo	Asks if agricultural practices would increase.
158	Neal	Replies that agriculture could be expanded in the area and elaborates.
165	Sen. Ringo	Inquires if there has been discussion of charging for the allocation of water based on cost.
172	Neal	Talks about streamlining regulatory procedures and states fees might be acceptable if farmers could pass some of the cost on to consumers.
182	Sen. Atkinson	Asks how far south Columbia River water can go currently.
186	Ziari	Explains that water could go 15-20 miles and be used to develop 50,000 to 100,000 new acres. Elaborates on costs associated with using Columbia River water.
213	Bob Levy	Hermiston. Provides testimony in support of SB 820. Reiterates issues surrounding uses of Columbia River water.
254	Sen. Ringo	Wonders about a fair allocation of water for Oregon users.
261	Ziari	Explains the background of claiming 1% of Columbia River water.
275	Pagel	Clarifies that if 1% of river water is set aside for economic development, the rest of the water will be maintained for navigation, power and fish.
293	Sen. Ringo	Inquires if Washington and Idaho are expected to increase consumption of Columbia River water.
295	Ziari	Explains the water situation in Washington.

320	Sen. Ringo	Asks if a certain amount of water should be left in the river.
330	Ziari	Asserts his belief that the Columbia River is the most underutilized river system in the world.
347	Pagel	Discusses water rights applications.
364	Chair Ferrioli	Comments that of the 7% total water utilization, 5% goes to Washington and less than 1% to each of the other states.
366	Ziari	Clarifies that Idaho is the largest user of water, with Washington as the second largest and Oregon as the third largest users.
374	Chair Ferrioli	Asks about moratorium agreement between Oregon and Washington.
382	Pagel	Explains that rules went into effect that required an extra level of review and elaborates.
TAPE 42, B		
010	William Burke	Confederated Tribes of the Umatilla Reservation (CTUIR) Water Commission. Provides testimony in opposition to SB 820 (EXHIBIT E) . Provides background information on CTUIR's interest in the Umatilla River and other Oregon rivers.
080	John Barkely	CTUIR Water Commission. Provides testimony against SB 820: <ul style="list-style-type: none"> • SB 820 contradicts existing state river protection laws and regulations that require any new use of water to be in the public interest • SB 820 is contrary to the state's recovery goals as set forth in the Oregon Plan for Salmon and Watersheds • Oregon law already provides for the reservation of unallocated water for future economic development • SB 820 would allow for diversions from the Columbia River before the impact of such diversions on listed species can be determined • SB 820 does not recognize the interests of Oregon Indian tribes
224	Sen. Atkinson	Asks about recharging the aquifer.
227	Barkely	Elaborates on recharging the aquifer.
250	Sen. Atkinson	Asks for clarification on potential diminishment of instream flows in the Umatilla River under SB 820.
255	Barkely	Explains that what happened in the past to the Umatilla River should be avoided with the Columbia River.
260	Sen. Ringo	Asks if CTUIR private lands touch the main stem of the Columbia River.
263	Barkely	Responds that one piece of land is on the Columbia River.
266	Sen. Ringo	Confirms that CTUIR has a direct interest in the main stem of the Columbia River
270	Burke	Affirms.
273	Sen. Ringo	Asks if CTUIR has fishing rights on the Columbia River.
278	Burke	Affirms.
283	Sen. Ringo	Inquires if Columbia River fish are already suffering because of the over-allocation of water.
285	Burke	Affirms and elaborates on allocating water for fish.
348	Sen. Ringo	Asks for more information about the impact of slow flowing water on salmon.
363	Barkely	Explains that river water needs to move quickly to stay cold so salmon can survive. Elaborates on impacts on salmon and discusses overriding concerns.

400	Burke	Discusses Columbia River flows.
420	Sen. Ferrioli	Discusses mitigating the damages to the Umatilla River and restoration of fish runs by tribes. Acknowledges concerns about lack of representation and mentions local irrigation districts' problems with groundwater management.
TAPE 43, B		
005	Ferrioli	Continues comments and asks tribes to join work group.
030	Burke	Agrees.
033	Ferrioli	States that tribal support for SB 820 is crucial.
063	Kimberly Priestley	WaterWatch of Oregon. Provides testimony in opposition to SB 820 (EXHIBIT F). States concern with the flow rates for the health of fish in the Columbia River.
096	Chair Ferrioli	Asks about oversubscription of the water.
098	Priestley	States that the needs of the fish are not being met.
101	Chair Ferrioli	Remarks that an increase in rainfall over the Columbia Basin would contribute to increased river flow.
106	Priestley	Responds that an increase in snow pack might help but global warming will only worsen flow problems. Continues testimony against SB 820: <ul style="list-style-type: none"> • SB 820 circumvents existing state river protection laws and regulations that require any new use of water to be in the public interest • SB 820 is directly contrary to the state's recovery goals as set forth in the Oregon Plan for Salmon and Watersheds • SB 820 amendments ignore the economic interests associated with keeping water instream • Oregon law already provides for the reservation of unallocated water for future economic development
195	Aubrey Russell	Oregon Trout. Expresses opposition to SB 820 and comments on conservation efforts for water use.
228	Chair Ferrioli	Encourages a work group. Closes public hearing on SB 820 and opens public hearings on SB 398.

SB 398 – PUBLIC HEARING

232	John Griffith	Coos County Commissioner. States support of SB 398 and -2 amendments.
240	Chair Ferrioli	Comments on SB 398 and asks if he objects to a trial period with one or two counties.
255	Griffith	Responds that it might be acceptable and explains.
260	Chair Ferrioli	Believes people are reluctant to give counties veto power over the acquisition of lands.
274	Griffith	Responds that the county commissioners can be voted out of office if they are not doing what the public desires.
278	Chair Ferrioli	Comments that local governing bodies should be engaged in any change in public land use patterns but the issue is that the legislature gave that authority away. Closes public hearing on SB 398 and opens public hearing on SB 591.

SB 591 – PUBLIC HEARING

301	John Griffith	Coos County Commissioner. States support for SB 591 and believes SB 399 and SB 591 could be merged.
312	John Chandler	Urban Developers Coalition; Oregon Building Industry Association. Expresses concern with SB 591 regarding the definition of compensatory wetlands mitigation for urban area development.
343	Chair Ferrioli	Asks if costs are added to the ability to mitigate by adding another administrative process over the creation of mitigation wetlands outside the urban growth boundary.
348	Chandler	Affirms.
359	Chair Ferrioli	Asks him to work with Griffith to find a solution and states that compensatory mitigation is authorized.
370	Judith Callens	Committee Administrator. Clarifies compensatory wetland mitigation in statute.
382	Chair Ferrioli	Clarifies in SB 591.
387	Harlan Levy	Oregon Association of Realtors. Provides testimony on SB 591. Expresses concern that it will be more difficult for developers of property to mitigate effects of wetlands.
406	Don Schellenberg	Oregon Farm Bureau. States supports for SB 591.
415	Chair Ferrioli	Closes public hearing on SB 591 and adjourns meeting at 5:07 p.m.

EXHIBIT SUMMARY

- A – SB 499, SB 499-2 amendments dated 4/7/03, staff, 1 p.**
- B – SB 820, written testimony, Senator David Nelson, 4 pp.**
- C – SB 820, SB 820-2 amendments dated 4/1/03, staff, 2 pp.**
- D – SB 820, written testimony, Martha Pagel, 5 pp.**
- E – SB 820, written testimony, William Burke, 4 pp.**
- F – SB 820, written testimony, Kimberley Priestley, 4 pp.**
- G – SB 398, SB 398-2 amendments dated 3/31/03, staff, 1 p.**
- H – SB 398, written testimony, Scott Duckett, 1 p.**
- I – SB 398, written testimony, The Nature Conservancy, 2 pp.**
- J – SB 591, written testimony, The Nature Conservancy, 1 p.**
- K – SB 591, written testimony, Scott Duckett, 1 p.**

